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Message Text

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INFO OCT-01 IO-13 ISO-00 OIC-02 EUR-12 DOTE-00 EB-07 AID-05

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APPROVED BY IO/OIC:JMGARNER
L - MR. SCHWEBEL
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FM SECSTATE WASHDC
TO USMISSION GENEVA
INFO USMISSION USUN NEW YORK

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E.O. 11652: N/A

TAGS: OCON, ETRN, ECE

SUBJECT: ECE: SECOND SEMINAR ON THE ROLE OF TRANSPORTA-
TION IN URBAN PLANNING, DEVELOPMENT AND ENVIRONMENT,
WASHINGTON, DC JUNE 13-19, 1976

REFS: (A) 75 STATE A-7242
(B) GENEVA 3288

1. ECE REVISION, CONTAINED PARA 1(A) REFTEL, TO US PRO-
POSED PARA 3 (SEE REFAIR) OF AGREEMENT APPEARS PRIMA
FACIE ACCEPTABLE; HOWEVER DEPT WOULD APPRECIATE EXPLANATION
FOR ECE DELETION OF REFERENCE TO GA RES 3351(XXIX) OF
DEC 18, 1974.

2. ECE PROPOSAL, CONTAINED PARA 1(B) REFTEL, FOR A NEW
PARA 4 IS NOT RPT NOT ACCEPTABLE. IN PAST NEGOTIATION OF
COMPARABLE AGREEMENTSWITH THE UN OR ITS BODIES, THE US
HAS EXPLAINED THAT IT DOES NOT RPT NOT HAVE AUTHORITY TO
ASSUME THE LIABILITY OF THIRD PARTIES IN OPEN-ENDED MANNER
CONTEMPLATED BY UN PROPOSALS. US HAS EXPRESSED WILLING-
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NESS TO CONSIDER ASSUMING THE COST OF PROTECTING AGAINST

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THE RISK OF CLAIMS (I.E. INSURANCE PREMIUMS), AS HOST GOVERNMENT, FOR THE CONVOCATION OF A MEETING AWAY FROM THE HEADQUARTERS OF THE APPLICABLE UN BODY. HOWEVER THE ECE

PROPOSED FORMULATION FOR NEW PARA 4 DOES NOT COMPORT WITH THIS OFFER. INSTEAD, IT INDICATES THAT THE UN MAY OR MAY NOT SECURE THE DESIRED INSURANCE COVERAGE (THE PREMIUM OF WHICH WOULD BE CHARGED TO THE US); AND, IRRESPECTIVE OF WHETHER SUCH INSURANCE COVERAGE IS SECURED, THE US WOULD BE RESPONSIBLE FOR THE COSTS OF SATISFYING OR SETTLING ANY ACTION, CLAIM OR OTHER DEMAND. ACCORDINGLY, UNDER ECE FORMULATION, ALTHOUGH THE US LIABILITY IN A PARTICULAR CASE MIGHT BE NO MORE THAN THE COST OF AN INSURANCE PREMIUM, THE US WOULD ALSO ASSUME DIRECT AND COMPLETE LIABILITY FOR ALL OF THE DESIGNATED CLAIMS, DEMANDS OR INJURIES. THE PROPOSAL IS UNACCEPTABLE FOR THAT REASON.

3. YOU SHOULD CONVEY THE SUBSTANCE OF PARA 2 THIS MESSAGE TO THE ECE. YOU SHOULD ALSO BE ADVISED THAT THE UN LEGAL DIVISION HAS COMMUNICATED A PROPOSAL SIMILAR TO ECE PROPOSED PARA 4 TO THE STATE DEPT LEGAL ADVISER AS A FORMULA TO BE UTILIZED GENERALLY. THE LEGAL ADVISER HAS NOT YET REPLIED TO THE UN LEGAL DIVISION BUT WILL RESPOND ALONG THE LINES OF PARA 2 THIS MESSAGE.

4. YOU SHOULD ADVISE THE ECE THAT AS AN ALTERNATIVE TO THEIR PROPOSED NEW PARA 4, THE US IS PREPARED TO ACCEPT THE FOLLOWING FORMULATION:

"4. INCLUDED AMONG THE ADDITIONAL COSTS TO BE BORNE BY THE GOVERNMENT UNDER GA RES 2609(XXIV), PARAGRAPH 10, IS THE COST OF INSURANCE PREMIUMS FOR INSURANCE COVERAGE CONTRACTED FOR BY THE UN AGAINST THE FOLLOWING RISKS:

(A) INJURY TO PERSON OR DAMAGE TO OR LOSS OF PROPERTY (WHETHER UNITED NATIONS PROPERTY OR OTHERWISE) IN THE PREMISES, INCLUDING DAMAGE TO THE PREMISES, REFERRED TO IN ARTICLE 6 AND THE ANNEX; AND

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(B) INJURY TO PERSON, OR DAMAGE TO OR LOSS OF PROPERTY CAUSED BY, OR INCURRED IN USING THE TRANSPORTATION REFERRED TO IN ARTICLE 3."

THESE TWO CATEGORIES OF RISK ARE IDENTICAL TO TWO CATEGORIES INDICATED BY THE ECE (SEE REFTEL PARAS 1(B)(A) AND 1(B)(B)). HOWEVER, DEPT HAS NOT INCLUDED THE REFTEL 1(B)(C) RISK ARISING FROM "THE EMPLOYMENT OF THE LOCALLY

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RECRUITED PERSONNEL REFERRED TO IN ARTICLE 6 AND THE ANNEX." DEPT IS NOT RPT NOT NECESSARILY OPPOSED TO THIS PARA, BUT REQUIRES CLARIFICATION OF ITS INTENDMENT.

5. PROPOSAL CONTAINED IN PRECEDING PARA IS ONE WHICH "THE US IS PREPARED TO ACCEPT," RATHER THAN A US PROPOSAL, BECAUSE US IS OF VIEW THAT THIS MATTER NEED NOT BE SPECIFIED IN TEXT OF AGREEMENT, AND THAT PARA 4 ORIGINALLY PROPOSED BY DEPT (WHICH ECE RETAINS) IS SUFFICIENT. MISSION SHOULD SO ADVISE ECE. YOU SHOULD ALSO ADVISE ECE THAT DEPT IS NOT NECESSARILY WEDDED TO FORMULATION CONTAINED PARA 4 THIS MESSAGE, BUT THAT DEPT IS EMPHATIC IN UNWILLINGNESS ACCEPT ECE FORMULA, OR ANY FORMULA BY WHICH US WOULD DIRECTLY ASSUME LIABILITY OF UN OR ANY THIRD PARTY.

6. CHANGES CONTAINED PARA 2 REFTEL ARE ACCEPTABLE, INCLUDING REFERENCE TO COST OF INSURANCE PREMIUM IF INSURANCE ISSUES POSED IN THIS MESSAGE ARE RESOLVED TO SATISFACTION OF DEPT. ROBINSON

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